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OPERATION DESERT
STORM

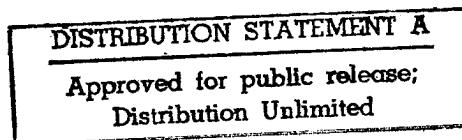
Investigation of a U.S.
Army Fratricide Incident

Statement of
Richard C. Stiener, Director
Office of Special Investigations

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our April 1995 report¹ concerning our investigation of events leading to a fratricide incident during the Persian Gulf War. We also assessed the adequacy of U.S. Army investigations following the incident and investigated allegations that Army officials hindered those investigations or influenced their outcome. The fratricide involved engineers attached to the Army's 1st Armored Division (AD) and elements of the Army's 3rd Armored Cavalry Regiment (ACR). One U.S. soldier--Army Sergeant Douglas Lance Fielder²--was unintentionally killed; a second--Sergeant James E. Napier--was wounded.

In summary, several critical factors resulted in the fratricide. The 3rd ACR's operation plans and operation orders were incomplete and confusing, in part, because they did not contain current intelligence information. Further, coordination along the U.S. Army corps boundary line had disintegrated resulting in elements of the 3rd ACR crossing into a sector known to be controlled by the 1st AD. More importantly, the 3rd ACR commanders did not maintain command and control of their units.

The 3rd ACR's AR (Army Regulation) 15-6 investigation of the incident, which consisted of three investigative efforts, found the 3rd ACR commanders not responsible for the incident. We question the completeness and accuracy of these investigations. However, we found no evidence of intentional document destruction, witness intimidation, or witness retaliation.

The AR 15-6 investigation was reviewed by the Forces Command Staff Judge Advocate, who recommended that three 3rd ACR officers be reprimanded and the engineers' Executive Officer be admonished. However, at the discretion of the Commander in Chief, Forces Command, two reprimands were not made part of the officers' official military personnel files, the third was withdrawn, and the admonishment was allowed to stand.

Further, we determined that several 3rd ACR personnel received heroism awards, related to the incident, that were based on misleading statements and inaccurate information.

THE INCIDENT

On August 2, 1990, Iraqi military forces invaded the emirate of Kuwait. They refused to withdraw by the United Nations-imposed deadline of midnight, Eastern Standard Time, January 15, 1991.

¹Operation Desert Storm: Investigation of a U.S. Army Fratricide Incident (GAO/OSI-95-10, Apr. 7, 1995).

²Corporal Fielder was promoted posthumously to Sergeant effective Feb. 26, 1991.

U.S. and allied forces thus implemented Operation Desert Storm on January 17, 1991, beginning with an extensive air campaign. The ground war began on February 24, 1991, and ended February 28, 1991, when allied commanders declared a cease-fire.

At approximately 2:30 a.m. (Persian Gulf Time) on February 27, 1991, near Umm Ḥajūl, Iraq, elements of the 3rd ACR, while attacking an Iraqi airfield, crossed a U.S. Army corps boundary line into a sector known to be controlled by the 1st AD. According to the I Troop Commander of the 3rd Squadron, Captain Bodo Friesen, he initially ordered the gunner of his M1A1 Abrams Main Battle Tank to fire warning shots away from suspected Iraqi ground troops. Those troops were instead the engineers of Charlie Company who were awaiting recovery of their disabled vehicle. The two engineers who were observing the 3rd Squadron's vehicles stated that they attempted to identify themselves before and after they were fired upon and they saw no warning shots. They claimed the first shots were fired directly at them. Immediately on firing the warning shots, Captain Friesen's tank driver and gunner reported return fire from the engineers' position, a claim the engineers and other 3rd Squadron troops dispute. Captain Friesen ordered his gunner and two Bradley Fighting Vehicles (Bradley) to fire. A cease-fire was then called. Sergeant Napier was wounded during this firing sequence.

While I Troop elements were developing and engaging the targets, the 3rd Squadron Commander, Lt. Colonel John H. Daly, Jr., moved into the engagement area. Once at the scene, he did not ask for Captain Friesen's assessment of the situation, which at that point appeared to the Captain to be under control. In addition, when one of two troops riding in Lt. Colonel Daly's Bradley asked to dismount in order to confront the suspected Iraqi troops, Lt. Colonel Daly dismounted the two without coordinating his actions with Captain Friesen or any of his subordinate units. This dangerously exposed the dismounts to the risk of fratricide. Further, relying on his Bradley gunner's assessment, Lt. Colonel Daly ordered his gunner to fire at an unconfirmed target. Specialist Fielder was killed during this firing sequence. Seconds before the Bradley gunner fired, 1st Lieutenant Kevin Wessels, the engineers' Executive Officer, had fired a green star cluster to illuminate the area. Unknown to Lieutenant Wessels at the time, a green star cluster was a daytime ground-to-ground antifratricide recognition signal.

We estimate that the time between the first shots and the fatal shots was 7 minutes 15 seconds. We also estimate that 25 minutes elapsed between when I Troop, 3rd Squadron, first misidentified the engineers and their identification as U.S. troops.

Among the critical factors resulting in the fratricide were the 3rd ACR's Operation Plan and Operation Order for the February 27, 1991, mission; they were incomplete and contained contradictory, outdated intelligence information about enemy presence. Further, coordination between the VII Corps and XVIII Airborne Corps along the boundary had disintegrated. In addition, maps used by the 3rd ACR commanders and troops in preparation for the mission were outdated and did not accurately depict the 3rd

ACR's objective. Communication failures--from the 3rd ACR through the squadrons to the troops--also contributed to the confusion leading to the incident.

However, of greater consequence, both the 3rd ACR Commander, Colonel Douglas Starr, and the 3rd Squadron Commander, Lt. Colonel Daly, failed to maintain command and control of their subordinate units: They did not ensure subordinates' knowledge of their southern boundary, past which they knew friendly forces might be located. They did not determine their and their units' positions relative to the boundary. Furthermore, Lt. Colonel Daly did not abide by the stated rules of engagement, which were not to fire unless fired upon and not to fire below the boundary.

INCOMPLETE, INACCURATE INVESTIGATIONS

Within hours, the 3rd ACR initiated an AR 15-6 investigation. By regulation, such investigations are to be thorough and impartial and make recommendations as warranted by the facts. The first Investigating Officer, in both his initial investigation and his subsequent reinvestigation, found that all personnel had acted responsibly and recommended that all be absolved of any criminal or administrative responsibility for the incident. The 54th Engineer Battalion Commander and the VII Corps Staff Judge Advocate reviewed the results of the first two investigative efforts and raised additional questions. As a result, in October 1991 the XVIII Airborne Corps directed that a supplemental AR 15-6 investigation be conducted. The second Investigating Officer concurred that all involved individuals had acted responsibly and recommended that they be absolved of all responsibility for the incident.

Among other shortcomings, both Investigating Officers overlooked numerous documents and other information, including an audio tape recording of the incident that we located. They did not elicit evidence that some 3rd Squadron personnel--including crew members aboard the 3rd Squadron Commander's Bradley--had recognized U.S. vehicles before the fatal shots were fired. Both misstated facts, such as that the engineers were not wearing Kevlar helmets or Load Bearing Equipment that would have aided identification. Neither Investigating Officer attempted to confirm statements concerning return fire. Neither investigators' conclusions and recommendations--which absolved all participants of any responsibility--were supported by the evidence available.

Later, a Forces Command Staff Judge Advocate, at the direction of the Commander in Chief, Headquarters Forces Command, performed a legal review and analysis of the report of investigation. He stated to us his supposition that the second Investigating Officer had a "skewed" objectivity and a predetermined conclusion concerning the case. This coincides with the results of recent GAO and Department of Defense (DOD) studies that

questioned the independence of command-directed investigations.³ That type of an investigation, according to a 1994 DOD study, is "most subject to abuse"; and the investigators who conduct them "are more subject to command influence."

The Forces Command Staff Judge Advocate recommended reversing the two Investigating Officers' findings, noting, among other failings, the involved 3rd ACR officers' "negligent" actions that placed their soldiers at risk and their "dereliction of duty" for assuming that personnel in a rear area were enemy. Based on his recommendations, three 3rd ACR officers were issued letters of reprimand; the engineers' Executive Officer was issued a memorandum of admonition. After those reprimanded replied to the reprimands, the Commander in Chief, Forces Command, General Edwin H. Burba, at his discretion, directed that two reprimands not be made part of the officers' permanent military files and that the third be withdrawn.

NO EVIDENCE OF INTENTIONAL HINDRANCE IN INVESTIGATIONS

During our investigation, we interviewed over 108 current and former U.S. Army and Air Force personnel who were directly or indirectly involved in the February 27, 1991, fratricide incident. We also reviewed, among other items, records and documents at the corps, division, regimental, and squadron levels; the entire AR 15-6 investigation and its reviews; and two related U.S. Army Inspector General investigations. We found no evidence of intentional document destruction, witness intimidation, or retaliation against witnesses.

QUESTIONABLE HEROISM AWARDS

During our investigation, we learned that heroism awards related directly to the fratricide incident had been given to three officers and several men of the 3rd ACR. These awards were based on misleading statements and misrepresentations made by the 3rd ACR Commander, Colonel Starr, and the 3rd Squadron Commander, Lt. Colonel Daly. Award support documents for the officers referred to "enemy" presence and "hostile fire" during the fratricide incident. Two of the awards indicated the actions had occurred at an airfield about 28 kilometers from the incident site. In May 1994, we briefed the Army on our investigative findings, including those concerning the heroism awards. Following that briefing, the Army Office of Inspector General (OIG) analyzed the awards. In August 1994, the Army OIG requested the Assistant Secretary of the Army for Manpower and Reserve Affairs to revoke the awards as the "award recommendations revealed that they were not in contact with an armed enemy."

³Military Training Deaths: Need to Ensure That Safety Lessons Are Learned and Implemented (GAO/NSIAD-94-82, May 5, 1994) and "Report of the Advisory Board on the Investigative Capability of the Department of Defense," 1994.

REVIEW OF ARMY INSPECTOR GENERAL'S INVESTIGATIONS

We also assessed the adequacy of two U.S. Army OIG investigations related to this incident. The first investigation focused on allegations of an intentional cover-up by Army officials in the reporting of the friendly fire death of Sergeant Fielder. After careful review, we believe that the evidence the Army OIG found supported its conclusion that no one within the Department of the Army intentionally withheld or attempted to cover up the friendly fire death of Sergeant Fielder. We also agree with the OIG's conclusion that, instead, systemic problems within the Army's notification process—including poor communication and training of personnel—caused confusion and resulted in suspicions of a cover-up.

The OIG's second investigation addressed allegations of abandonment and cowardice on the part of the commanding officer of Charlie Company, 54th Engineer Battalion. After review, we believe that the evidence the OIG found supported its conclusion that these allegations were not substantiated.

We also reviewed the Army OIG inquiry into the heroism awards for its content. Even though the Army OIG recommended the revocation of the awards, it indicated that it had found "no evidence that any individual falsified information in the awards recommendations." However, we found that several of the support documents justifying the awards contained misleading statements and misrepresentations that were submitted by those directly involved in the fratricide incident.

RECOMMENDATIONS

In our April 1995 report, we recommended that the Secretary of the Army (1) reexamine, for their appropriateness, the disciplinary actions taken regarding this fratricide incident and the disposition of those actions and (2) follow up on the Army OIG request that improperly supported awards for participation in fratricide incidents be revoked. At this time, we have not received an official response to our recommendations.

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This completes my prepared remarks. I would now welcome any comments or questions that you may have.

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